

ESTTA Tracking number: **ESTTA189896**

Filing date: **01/31/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Kimberly Kearney		
Entity	Individual	Citizenship	UNITED STATES
Address	P.O. Box 2436 Duluth, GA 30096 UNITED STATES		

Correspondence information	Kimberly Kearney P.O. Box 2436 Duluth, GA 30096 UNITED STATES thisisfreedom@aol.com Phone:(678)698-5934
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Applicant Information

Application No	77235269	Publication date	01/08/2008
Opposition Filing Date	01/31/2008	Opposition Period Ends	02/07/2008
Applicant	Tardiff, Donald L 316 Firtree Court Encinitas, CA 92024 UNITED STATES		

Goods/Services Affected by Opposition

Class 041. All goods and services in the class are opposed, namely: Production and distribution of television shows and movies; Providing facilities for producing video, cinema and photography productions

Grounds for Opposition

Deceptiveness	Trademark Act section 2(a)
False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
The mark is primarily geographically deceptively misdescriptive	Trademark Act section 2(e)(3)

Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77082091	Application Date	01/12/2007
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HOLLYWOOD SOUTH		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 041. First use: First Use: 2005/06/24 First Use In Commerce: 2005/06/24 Production and distribution of television shows and movies

Related Proceedings	We currently have an existing trademark application under use in commerce - serial #77082091 for "Hollywood South" which was filed January 12, 2007 before the opposed's application was filed.
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Attachments	77082091#TMSN.jpeg (1 page)(bytes) letter of opposition against ser#77235269 .pdf (2 pages)(60397 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Kimberly Kearney/
Name	Kimberly Kearney
Date	01/31/2008



Kim Kearney

P.O. Box 2436, Duluth, GA 30096
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kimk@hollywoodsouthproductions.com

January 25, 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

RE: "IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD"

OPPOSITION TO TRADEMARK REGISTRATION SERIAL #77235269 - "HOLLYWOOD SOUTH" v. "WELCOME TO HOLLYWOOD SOUTH" -Opposition No. _____

I, Kimberly Kearney, owner of "Hollywood South", am vehemently opposed to the registration of serial #77235269 - "Welcome to Hollywood South" because its registration would cause irreparable damage to the branding, marketing, reputation, and profitability of my company. Registering this trademark would undisputably mislead the public into believing it is somehow associated with my company which provides the same services of television and film production and distribution nationally, when it is not. The entertainment business is run primarily on reputation, integrity, and notoriety and this other company could severely damage both my reputation and credibility in the marketplace. In addition, this other company would unfairly benefit from the branding and name recognition we've already created and continue to create through tens of thousands of dollars I've invested in marketing and promotion, to establish this business and what we do in the industry. To date, we have produced 7 television shows under this name which have aired on a national television network and even beat out other major network programs in the ratings including Fox News, Extra and the Carlson Daley Show. This other company has filed an "intent to use" application, and was not even in business when the application was filed. Secondly, their application was filed almost 6 months after mine.

In accordance with the policies and regulations of the United States Patent and Trademark Office, I am opposing the registration of Serial ##77235269 - :Welcome to Hollywood South" for the following reasons:

1. Likelihood to create confusion. In accordance with Section 2d of the Act, 15 U.S.C. & 1052d; That defendant's mark so resembles a mark registered in the Office , or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connections with the goods or services of the defendant, to cause confusion, or to cause mistake, or to deceive.

People will definitely think we are the same company or somehow associated because of the name and the similarity of our goods and services which are practically identical. There is nothing in the name, nor the goods and services that would help someone to distinguish between our two entities.

2. Filing priority. The original application for my trademark "Hollywood South" was filed under basis 1A (use in commerce) on Jan. 12, 2007, with a first use date of June 24, 2005. The opposed's trademark application for "Welcome to Hollywood South", Serial #77235269 was filed on July 20, 2007, more than 6 months from the date of my application and almost 2 years later than I started using the mark in commerce. In addition their application was filed on the basis of "intent to use", so technically they weren't even using the mark when their application was submitted.

3. DECEPTIVELY MISDESCRIPTIVE AND GEOGRAPHICALLY MISDESCRIPTIVE; The grounds for my opposition is also based on Section 2 (e) of the Act 15 U.S.C. & 1052(e). Their name is also fraudulent, and misrepresents the authenticity of their company because they are located in California which is clearly not in the south. My company is based in Atlanta, the mecca for the entertainment industry in the south. And the principal of my

company was and will always be, to establish a respected television and film production company based in the south, which creates viable opportunities and employment for Southern based talent, professionals, businesses, and communities in the television and film industry. The opposed is misusing the very principal of the name by using the name to apply some association with the entertainment business in the south, and I find that fraudulent and offensive, I been working to bring Hollywood to the South since 1989 and have definite helped bring respect and notoriety to the region through my successful southern based ventures.

4. In accordance with Section 2(a) of the Act 15 U.S.C. & 1052(a) the defendant's mark will violate my trademark registration on the bases that the mark falsely suggests a connection with plaintiff's name or identity. This is inevitable, because people will think that we are associated based on the similarity of class, same goods and services,, which is actually identical. This will our ability to even function and operate as a viable company, it will negatively effect every aspect of our business including but not limited to marketing, casting and the entire production process.

5. The term for which registration is sought or for which registration has been made, "Welcome to Hollywood South", has not been used as a trademark or service mark.

6. The defendant's mark would also dilute the distinctive quality of plaintiff's famous mark. We have used the mark on tv, in movie productions, casting, and on the internet for years now and their registration would make the use of the name appear generic as if it were a place (Welcome to...) but is does not exist as a place anywhere in the world, it is an unique business entity which I created.

7. Registration of the defendant's application could also adversely affect the registration of my application for " Hollywood South", which is in the same class 041 and provides identical services.

I'm sure it is clearly obvious why the opposed's trademark should not be published, please protect the integrity of this process and the reputation of our company by denying their application and refusing its registration. I will be anxiously awaiting your reply.

Sincerely,

Kim Kearney, Hollywood South